

# **Notice of Allowability**

Application No.

10/643,708

Examiner

Gerald B. Klebe

Applicant(s)

LEITNER ET AL.

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to preliminary amendment filed 08/19/2003.
2. ☒ The allowed claim(s) is/are 56-81.
3. ☒ The drawings filed on 19 August 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## **Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 08/19/2003
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

*G B Klebe*  
17 March 2005

## **DETAILED ACTION**

### ***Preliminary Amendment***

1. The preliminary amendment filed 08/19/2003 has been entered. Claims 56-81 are pending in the application, all other claims 1-55 being cancelled by the amendment.

### ***Restriction / Election***

2. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I: Figures 1-6

Species II: Figures 7-11

Species III: Figures 12-15

Species IV: Figures 16-17

Species V: Figures 18-19

Species VI: Figures 20-21

Species VII: Figures 22-25A

Figure 26 is considered generic to all species.

During a telephone conversation with Attorney of Record Mr. Edward A. Schlatter, Reg. No. 32,297 on 17 March 2005 a provisional election was made without traverse to prosecute the invention of Species VII, claims 56-81 reading thereon. Affirmation of this election must be made by applicant in replying to this Office action. Claims NONE (Not Applicable) are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Examiner's Consideration of References of Record in Parent and Related Applications  
and Potential Double Patenting relative to commonly owned patents and co-pending  
Applications***

3. Pursuant to the requirements set forth in MPEP § 609 and § 2001.06(b), the Examiner has considered all references of record in the Parent (serial number 10/274418, now US Patent 6,834,875) of the present application, and the commonly-owned co-pending applications Ser. No. 10/641358; Ser. No. 10/993047; Ser. No. 10/996125; and Ser. No. 10/961835 as of the date of this Office Action; and has considered the following commonly-owned patents and co-pending applications for potential double patenting by the claims currently pending in the present application: US 6641158; US 6830257; US 6834875; Ser. No. 10/996125; Ser. No. 10/641358; Ser. No. 10/993047; and Ser. No. 10/961835.

***Allowable Subject Matter***

4. Claims 56-81 are allowed.

Art Unit: 3618

***Prior Art made of Record***

5. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The prior art of Schofield; of Paula; of Hedley; of Clugston (-809); of Azuma (-081); and of Azuma (-629) each show features in common with some of the other structures of the inventive concept disclosed in the instant application.


***Conclusion***

6. Any inquiry concerning this or earlier communication(s) from the examiner should be directed to Gerald B. Klebe at 703-305-0578, fax 703-872-9306; Mon.-Fri., 8:00 AM - 4:30 PM ET, or to Supervisory Patent Examiner Christopher P. Ellis, Art Unit 3618, at 703-308-2560.

Official correspondence should be sent to the following TC 3600 Official Rightfax numbers as follows: Regular correspondence: 703-872-9326; After Finals: 703-872-9327; Customer Service: 703-872-9325.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*gbklebe*  
gbklebe / Art Unit 3618 / 17-Mar-05

  
CHRISTOPHER P. ELLIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600